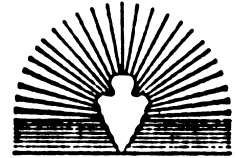




San Bernardino County

Land Use Services Department, Current Planning Division

San Bernardino County Government Center
385 N. Arrowhead Ave.; San Bernardino, CA 92415-0182
15900 Smoke Tree Street; Hesperia, CA 92345
San Bernardino Office – (909) 387-8311 Victorville Office – (760) 995-8140
Fax (909) 387-3249 Fax (760) 995-8167



HOUSING INCENTIVES PROGRAM SUPPLEMENTAL INFORMATION SHEET AND SAMPLE AGREEMENTS

This packet provides additional information and sample agreements for applicants who wish to submit an application for an affordable housing project and are requesting a density bonus. It is supplemental to at least one other land use application. See item #1 below. For costs and submittal requirements, please refer to one of these other applications.

INFORMATION AND PROCEDURES

1. Applicants proposing to utilize the Housing Incentives Program (HIP) will submit one or more of the following project applications:

- (a) Pre-Application Development Review
- (b) Minor Use Permit (MUP)
- (b) Conditional Use Permit (CUP)
- (c) Preliminary Development Plan (PDP)*
- (d) Planned Development (PD) and Tentative Tract (TT)*

* Tentative Tracts HIP projects may only be filed as part of a Planned Development Application.

(Note: Where a PD or a part of a PD is proposed as a Housing Incentives Program Project, the density bonus shall be computed on the base density allowed by the General Plan map.)

2. Housing Incentives Program (HIP) Developer Agreement: As a condition of final project approval, applicant will complete the appropriate HIP Developer Agreement [e.g., HIP Sale, HIP Sale (Condominium Conversion), or HIP Rental Agreement]. Sample HIP Sale and Rental Agreements are attached.

REASON FOR THE HOUSING INCENTIVES PROGRAM

The County of San Bernardino is committed to encouraging the construction of affordable housing developments. The Housing Element of the General Plan promotes the development and maintenance of structurally sound, sanitary, attractive and affordable housing and living environments for all economic segments of society. Affordable Housing is generally defined as housing where the lower/very low income occupant is paying no more than 30% of gross income for gross housing costs, or the moderate income occupant is paying no more than 35% of gross income for gross housing costs.

WHAT IS THE HOUSING INCENTIVES PROGRAM?

The HIP implements the provisions of State Density Bonus Law, California Government Code, Section 65915, et seq. The County Board of Supervisors has adopted the Housing Incentives Program which sets forth criteria for granting density bonuses and other incentives as follows:

INCENTIVE 1: Density Bonuses

Density Bonuses of twenty-five percent (25%) above the General Plan designated density shall be granted to housing developments as consideration for compliance with all terms of the duly executed and authorized HIP Developer Agreement and all requirements of any applicable statutes and regulations. In all cases, the final granting of density bonuses shall be at the discretion of the Planning Commission and the Board of Supervisors upon approval of the HIP Developer Agreement. The County shall grant the following density bonuses under the HIP as applicable:

FOR-SALE OR FOR RENT AFFORDABLE HOUSING MAXIMUM DENSITY BONUS ALLOCATIONS

INCOME GROUP
DENSITY BONUS

% AFFORDABLE REQ.
FOR MAXIMUM

MAXIMUM* DENSITY
BONUS

Lower - 80% of median

Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

Very Low - 50% of median

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

Senior Citizen Housing

20%

(as defined in California
Civil Code Section 51.3)
No income levels for this category

****CONDOMINIUM CONVERSION HIP PROJECTS** (pursuant to Government Code Section 65915.5, where the density bonus means an increase in units over the number of apartments to be provided within the existing structure(s) proposed for conversion. Condominium Conversion Projects are ineligible for HIP incentives if the apartments proposed for conversion constitute a housing development for which a density bonus and/or other incentives were previously provided.)

<u>INCOME GROUP DENSITY BONUS</u>	<u>% AFFORDABLE REQ. FOR MAXIMUM</u>	<u>MAXIMUM* DENSITY BONUS</u>
Lower***	15%	25%
Low/Moderate Income****	33%	25%

*other density bonus percentages are available. See Development Code Chapter 83.03 for complete information.

**The HIP Sale (Condominium Conversion) Agreement must be used for these projects. There is no term of affordability after resale for Condominium Conversion Projects.

***Lower Income as defined in California Health and Safety Code Section 50079.5.

****Moderate Income is as defined in California Health and Safety code Section 50093

Number of incentives. The applicant shall receive the following number of incentives or concessions.

- (1) **One incentive or concession.** One incentive or concession for a project that includes at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
- (2) **Two incentives or concessions.** Two incentives or concessions for a project that includes at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.
- (3) **Three incentives or concessions.** Three incentives or concessions for a project that includes at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in common interest development.

(c) Type of incentives. For the purposes of this Chapter, concession or incentive means any of the following:

- (1) A reduction in the site development standards of this Development Code (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements (see also Section 83.03.050 [Parking Requirements in Density Bonus Projects]), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 *et seq.*, that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;
- (2) Approval of mixed-use land uses not otherwise allowed by this Development Code in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
- (3) Other regulatory incentives proposed by the applicant or the County that will result in identifiable, financially sufficient, and actual cost reductions; and/or
- (4) In its sole and absolute discretion, a direct financial contribution granted by the Board, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

- (d) **Effect of incentive or concession.** The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Land Use Plan amendment, or other discretionary approval.

PREAPPLICATION PROCEDURE

The preapplication procedure is optionally available to all HIP Project applicants. The procedures for each alternative are described as follows:

ALTERNATIVE 1

Housing Incentives Program Applicants using Preapplication Conference (J694) Procedure

The HIP preapplication procedure is an opportunity for the comprehensive but informal review of an applicant's proposal, wherein all County departments and other municipal governments review information submitted by the applicant and provide comments.

The HIP Preapplication package may be submitted at any time. After acceptance of the complete preapplication, a Pre-application Conference (J694) will be held. At this meeting, all County departments and other jurisdictions involved in the review of the proposal will have the opportunity to attend and/or provide their input. Applicant must submit all items listed in the Preapplication Checklist.

ALTERNATIVE 2

HIP Applicants Seeking to Waive Preapplication Conference (J694) Procedure

HIP applicants may waive the Preapplication Conference (J694) by written notice. Applicant would then complete and submit all items indicated on the Preapplication Checklist, and file this Preapplication package with the appropriate application type (e.g., CUP, or PD and Tentative Tract).

CUP, Tract, or PD HIP Projects are reviewed by the Development Review Committee (DRC) whereby all County departments and other affected jurisdictions will evaluate the proposal and provide their input.

HOUSING INCENTIVES PROGRAM CRITERIA

1. HIP Projects must construct five or more housing units, excluding the additional units requested through the density bonus.
2. Appropriate land use district is in place, or applicant is in the process of applying for an appropriate change of district.
3. Affordable housing units will be sold to qualified owner/occupants exclusively, rented to qualified tenants only, or occupied by qualified senior citizens only.
4. Housing unit density is in accordance with all applicable regulations and codes.
5. **MAXIMUM HOUSEHOLD INCOME LEVELS** are established each year for each income group for each County by the State of California Department of Housing and Community Development (HCD) based on the limits established by the Department of Housing and Urban Development (HUD). The same income levels apply to the unincorporated and incorporated portions of the County. The current income levels for the County are provided in Exhibit C to the HIP Sale and Rental Agreements which are attached. The income levels are based on the Countywide Median Income.

Lower Income: 80% of Median Income

Very Low Income: 50% of Median Income

6. **Maximum Sales Prices** by income group for affordable housing units for sale are provided in the HIP Sale Agreement. No adjustment for household size or unit size is made in calculating the maximum sales prices. The monthly house payment, which includes homeowners fees, insurance and taxes, etc., cannot exceed the following:

Lower and Very Low Income: .30 X Monthly Income

Note: While the mortgage rate for a particular project may be designated at a specific level when a project receives HIP approvals, mortgage rates typically fluctuate over time, and so the specific rate(s) utilized as the project is marketed may be subject to negotiation between the HIP Project Developer and San Bernardino County.

7. MAXIMUM ALLOWABLE RENTS are calculated by determining the maximum number of occupants for the number of bedrooms proposed, and adjusting the Median Income figure accordingly. *NOTE: Although the Lower Income level is defined as earning 80% of the median, State Law established a different formula for calculating maximum rents.* The Maximum Allowable Rents are provided by income group **(60% for Lower Income)** and unit size/household size in the HIP Rental Agreement using the following formula:

Lower Income Units: $(.60 \times \text{Monthly Income} \times .30)$ Adjusted for BR size or HH size

Very Low Income Units: $(.50 \times \text{Monthly Income} \times .30)$ Adjusted for BR size or HH size

A conversion schedule established for HCD's California Housing Rehabilitation Program - Rental assumes the following:

UNIT SIZE	PERSONS PER UNIT
SRO (residential hotel) unit	.75 of one person (no kitchen or bath)
0 bedroom unit (studio)	1 person
1 bedroom unit	2 persons
2 bedroom unit	3 persons
3 bedroom unit	4 persons
4 bedroom unit	6 persons

8. All applicants of the Housing Incentives Program, as a condition of approval of a density increase, shall be required to enter into an HIP Developer Agreement.
9. Owners shall not be allowed to sell or rent housing units that are committed as affordable housing unless owner and County of San Bernardino first enter into a HIP Developer Agreement relating to those units.
10. Projects granted a density bonus under the terms of the HIP Sale or HIP Rental Agreements must reserve at least 10% of the units for Lower Income group occupants, at least 5% of the units for Very Low Income group occupants, or of the units for seniors. All units committed as affordable housing must be reserved as affordable for a period of 10 years from the date of the initial occupancy of the unit. Affordable housing projects granted an additional, financial incentive must reserve the affordable units for a minimum period of 30 years, maximum period of 50 years from the date of initial occupancy. This requirement for the re-sale or re-rental of any affordable unit shall be included in the project conditions of approval, the HIP Developer Agreement, and as a restriction of the deed. Applicants receiving additional financial incentives or subsidies shall be required to provide all applicable documentation to that effect prior to completion of the appropriate HIP Developer Agreement.
11. Projects granted a density bonus under the terms of the HIP Sale (Condominium Conversion) Agreements must reserve 33% of the units for Moderate Income group occupants or 15% of the units for Lower Income group occupants. No term of affordability restrictions apply.
12. HIP Sale and Rental Agreements are subject to the State Density Bonus Law (California Government Code Section 65915 et seq.) and all changes to such law shall, where necessary constitute an automatic amendment to any HIP Sale/Rental Agreement. Such automatic amendments include modifications to the maximum rental prices and/or maximum income levels by the State Department of Housing and Community Development (HCD).

Recording requested by
County of San Bernardino, California

When recorded, mail to:

Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino CA 92415-0130

Space above this line for Recorder's use

COUNTY OF SAN BERNARDINO

HOUSING INCENTIVES PROGRAM (HIP)
DEVELOPER SALE AGREEMENT

This HOUSING INCENTIVES PROGRAM DEVELOPER SALE AGREEMENT ("HIP Sale Agreement"), dated as of ____ 20____, is made by and between the County of San Bernardino (the "County"), a legal subdivision and body corporate and politic of the State of California and ____, a ____ organized under the laws of the State of ____ (the "Owner"),

WITNESSETH :

WHEREAS, California Government Code, Section 65915, et seq., requires that the County grant a density bonus and/or other incentive to any developer of housing who meets certain requirements set forth therein and agrees to construct at least (1) 20 percent of the total number of units permitted by the General Plan for a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (2) 10 percent of the total number of units permitted by the General Plan for a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.3 of the Civil Code, and

WHEREAS, California Code of Regulations, Title 25, Section 6910, et seq., contains regulations implementing the statute described above. The regulations contain various definitions and contain a table of income limits for families of various sizes and income levels; and

WHEREAS, pursuant to the aforementioned statute and regulations, the County's Board of Supervisors has adopted a Housing Incentives Program (HIP) setting forth criteria for the granting of various incentives, including density bonuses.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this HIP Sale Agreement, the County and the Owner agree as follows:

ARTICLE I
DEFINITIONS AND STRUCTURE

Section 1.1 Definitions. As used in this HIP Sale Agreement, the following terms shall have the following meanings.

Affordable Units. The units in the Project designated for sale to low income households or seniors.

Maximum Household Income. The term "maximum household income" in the County is as set forth in Exhibit C.

Building or Structure. The term "Building" or "Structure" means a discrete edifice or other manmade construction consisting of an independent foundation, outer walls and roof. A single unit which is not an entire building but is merely a part of a building is not a Building or Structure within the meaning hereof. As such, single townhouses are not Buildings or Structures if their foundation, outer walls, and roof are not independent. Detached houses and row houses are Buildings or Structures.

Lower-Income Household. "Lower income households" means persons and families as described in California Health and Safety Code Section 50079.5.

Very low income households. Very low income households" means persons and families as described in California Health and Safety Code Section 50079.5.

Senior citizen. Senior citizen means a person 62 years of age or older, or 55 years or older in a senior citizen housing development, and as further defined in Section 51.3 of the Civil Code.

Maximum Sales Price. The term "Maximum Sales Price" is derived from the County median income for a family of four. The calculations and schedules of Maximum Sales Price are presented in Exhibit C.

Program. The term "Program" means the Housing Incentives Program.

Project. The term "Project" means the housing located on the real property described in Exhibit A hereto.

Term of HIP Sale Agreement. This HIP Sale Agreement shall remain in effect until the owner has satisfied its obligation hereunder, but in no event shall the period of effectiveness extend beyond 50 years from the date first appearing above.

Section 1.2 Interpretation. Unless the context clearly requires otherwise, words of any gender shall be construed to include correlative words of the other gender, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This HIP Sale Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

ARTICLE II
REPRESENTATIONS AND WARRANTIES

Sections 2.1 Representations and Warranties by County. The County represents and warrants as follows:

(A) It (1) is a legal subdivision and body corporate and politic of the State of California, duly organized and existing under and by virtue of the Constitution and laws of the State of California; (2) has lawfully determined to adopt and implement the Program; (3) has full power and authority to execute and deliver this HIP Sale Agreement and to perform its obligations hereunder; and (4) by proper action has duly authorized the execution and delivery of this HIP Sale Agreement.

(B) The execution and delivery of this HIP Sale Agreement and the consummation of the transactions contemplated hereby do not conflict with or constitute a breach of or a default under the Constitution or other laws of the State of California or the terms and conditions of any agreement or commitment to which the County is a party or by which the County is bound.

Section 2.2 Representations and Warranties by Owner. The Owner represents and warrants as follows:

(A) It is duly organized, validly existing and in good standing under the laws of the State of its organization as set forth on the first page of this HIP Sale Agreement and has the power and authority to own its properties and carry on its business as now being conducted, and is duly qualified to do such business wherever such qualification is required, including the State of California.

(B) It has the power to execute and deliver this HIP Sale Agreement and to carry out the transactions contemplated hereby and has duly authorized the execution, delivery and performance of this HIP Sale Agreement.

(C) Neither the execution or delivery of this HIP Sale Agreement nor the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the terms and conditions hereof conflicts with or results in a breach of any of the terms, conditions or provisions or any legal restriction of any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default under any of the foregoing or violated any judgment, order, writ, injunction, decree, law, rule or regulation to which it is subject.

(D) It is knowledgeable and experienced in the construction and operation of housing of the magnitude and nature it proposes to undertake in connection with the Project.

ARTICLE III
OWNER COVENANTS

Section 3.1 Covenants of Owner. The Owner covenants as follows:

(A) Owner is owner of certain real property located in the _____ County of San Bernardino, described in Exhibit A.

(B) Owner proposes to construct _____ for-sale units on the property described above. The County's General Plan permits the construction of _____ housing units on the property. Owner has requested a _____ percent bonus density. County agrees that Owner shall receive the requested bonus density and any other housing incentive set forth in the HIP in consideration for compliance with all terms of this HIP Sale Agreement.

(C) Owner agrees that _____ percent of the number of units permitted by the General Plan or _____ housing units of the proposed housing units in the Project shall be committed as affordable housing to owner/occupant _____ income households as provided below. Owner further agrees to comply with all applicable requirements of the above-referenced statutes, regulations and the HIP.

(D) In accordance with this HIP Sale Agreement, the Owner shall make available for sale (to _____ income households as defined herein) _____ of the housing units constructed for the project, per phase, at a sales price not exceeding the Maximum Sales Price (as defined in Section 1.1 herein). Affordable units shall be developed at the same time or prior to market rate units. Adjustable rate mortgages, graduated payment mortgages, and mortgage buydowns shall not be utilized to qualify home buyers.

(E) The annual household income for the lower and very low income groups shall have a maximum as defined in Section 1.1. If, after 180 days from the date of final approval of the Project by the County, escrows have not begun on the required number of affordable units to qualified buyers, income limitations are eliminated for the affordable units which have not been placed in escrow, provided the Owner has documented to the County the following:

1. Owner has advertised, not less than once a week, over a 180-day period. Owner shall place a 1/8 page legal display advertisement in a newspaper of general circulation.
2. Owner has contacted the (Housing Authority or local Board of Realtors) requesting qualified buyers, not less than once a month.
3. Listing of names and addresses of interested qualified potential buyers for the affordable units.

(F) Notwithstanding any other provision of this HIP Sale Agreement to the contrary, under no circumstances shall any of the following be eligible to purchase any of the units in the Project as a lower income or very low income buyer:

1. The Owner, independent contractors of the Owner, and any management companies and sales/rental agencies retained by the Owner.
2. Employees or owners of any entity listed in 1. above.
3. Family members of any individual listed in 2, above. As used herein. The term "family member" means spouse, children, grandparents and parents.

(G) Owner shall not rent housing units(s) committed as affordable housing unless Owner and County of San Bernardino first enter into an Housing Incentives Program Rental Agreement relating to those units. The County at its discretion may refuse to execute a Housing Incentives Program Rental Agreement and Owner shall have no recourse against County for such a refusal.

(H) The Affordable Units shall be sold only to _____ income buyers for a period of _____ years from date of the individual buyer's sales contract pursuant to the terms in this HIP Sale Agreement, as provided in Section 65915(c) of the Government Code. A restriction to this effect shall be set forth on the Deed of Trust for each Affordable Unit.

(I) Owner shall complete and document to the County for each Affordable Unit within 30 days of close of escrow on each unit, the following:

1. A copy of all affordable housing sales closing statements.
2. An original, signed HIP Sale Agreement for each Affordable Unit (Exhibit B).
3. A declaration under penalty of perjury setting forth sales prices for each affordable housing unit.
4. Substantiating documentation that buyer is qualified as a _____ income household. Such documentation may include, but is not limited to, at least one of the following:
 - (A) Copy of most recent Federal Income Tax statement(s)
 - (B) Copy of W-2 forms from current employer(s)
 - (C) Copy of check stub of SSDI or other income source
5. Copy of cancellation agreement, signed by all parties, should escrow not be completed with the purchase of the designated affordable housing unit by buyers.

(J) Owner shall promptly in writing notify County upon any transfer or sale of the Project and a new HIP Sale Agreement shall be executed by the new owner prior to the close of escrow. The project shall remain subject to the requirements of this HIP Sale Agreement whether or not a new Hip Sale Agreement is executed.

ARTICLE IV

AMENDMENT BY COUNTY

Section 4.1 Amendment by County. This HIP Sales Agreement is subject to the State Density Bonus Law (California Government Code Section 65915 et seq.) and all changes to such law shall, where necessary constitute an automatic amendment to this HIP Sales Agreement. Such automatic amendments include modifications to the maximum sales prices and/or maximum income levels by the State Department of Housing and Community Development (HCD).

ARTICLE V
PENALTIES FOR DEFAULT

Section 5.1 Default Defined: Penalties. If Owner sells an affordable unit for an amount in excess of the affordable housing Maximum Sales Price, Owner shall pay to the County twice the difference between the affordable maximum sales price and actual sales price. If Owner sells an affordable unit to a buyer whose income exceeds the allowable maximum, defined in Section 1.1, Owner shall pay County \$5,000 for each and every such violation. County shall allocate any money collected pursuant to this Section for the provision of additional affordable housing, including the administration and enforcement of the HIP program.

ARTICLE VI
OTHER MATTERS

Section 6.1 Recordation of HIP Sale Agreement. This HIP Sale Agreement shall be recorded in the official records of the County, such recordation to be effected at the direction of the County.

Section 6.2 Execution in Counterparts. The HIP Sale Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, such counterparts shall constitute but one and the same instrument.

Section 6.3 Saturdays, Sundays and Holidays. If any action is required to be taken hereunder on a date which falls on a Saturday, Sunday or a holiday, such action shall be taken on the next succeeding business day.

Section 6.4 Entire Agreement. The Exhibits hereto are incorporated herein by this reference. This HIP Sale Agreement shall be construed in accordance with the laws of the State of California and constitutes the entire agreement between the parties and supersedes all prior negotiations, discussions, and preliminary understandings. This HIP Sale Agreement may be amended as the County and Owner mutually agree in writing. Any such amendment must be approved and signed by authorized representatives of the County and Owner.

Section 6.5 Notices. All notices, certificates or other communications shall be addressed as follows:

If to the County: Land Use Services Department
 Planning Division
 385 N. Arrowhead Ave. 1st Floor
 San Bernardino CA 92415-0182

If to the Owner: _____

The County and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.6 Severability. In the event any provision of this HIP Sale Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.7 Further Assurances and Corrective Instruments. To the extent permitted by law, the County, and the Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitation of the performance of this HIP Sale Agreement.

Section 6.8 Limited Liability.

(A) Nothing contained herein shall create or constitute a debt or indebtedness of the State or the County within the meaning of any provision or limitation of the Constitution or statutes of the State or shall create or constitute or give rise to a pecuniary liability of the State or the County or a charge against its general credit or taxing powers. No supervisors or officer, agent or employee of the County shall be individually or personally liable for any obligation of the County hereunder; but nothing herein contained shall relieve any such Supervisor, officer, agent or employee from the performance of any official duty provided by law.

(B) Owner shall indemnify, defend and hold harmless the County, its officers, agents and employees for any and all claims, losses or legal actions arising from any and all of the actions or omission of the Owner, its employees, agents or subcontractors pertaining to this HIP Sale Agreement.

Section 6.9 Waiver. No waiver of a breach of any provision of this HIP Sale Agreement shall constitute a waiver of any other breach or other provision. Failure of Owner or County to enforce at any time, or from time to time, any provision in this HIP Sale Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and in addition to any other remedies in law or equity.

Section 6.10 Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and are not a part of this HIP Sale Agreement and shall not be used in the interpretation thereof.

Section 6.11 Breach. In the event Owner shall violate any provision of this HIP Sale Agreement, including a default as defined in paragraph 5.1 hereof, Owner shall reimburse County for all costs, including reasonable attorney's fees, to the extent provided by law, incurred by County in enforcing this HIP Sale Agreement or its rights hereunder.

IN WITNESS WHEREOF, the parties have caused this HIP Sale Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

[SEAL]

COUNTY OF SAN BERNARDINO

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED TO
THE CHAIRMAN OF THE BOARD
LAURA H. WELCH
Clerk of the Board of Supervisors
of the County of San Bernardino

Deputy

By: _____
Chairman of the Board of Supervisors

[SEAL]

ATTEST:

(Owner)

By: _____

EXHIBIT A
to HIP Sale Agreement

Description of the real property
on which the project is located
(Include Assessor Parcel Number)

EXHIBIT B

COUNTY OF SAN BERNARDINO HIP SALE AGREEMENT CONTRACT NUMBER:

The sale of this housing unit is subject to the County of San Bernardino's affordable housing regulations. To comply with County regulations, this form must be completed and signed by both the Home Seller and Home Buyer.

1. Maximum allowable gross income \$ _____
Buyers gross income for 20____ \$ _____ (line _____ of IRS Form _____).

(Note: If after one hundred eighty (180) days from the date of final approval by the County, escrows have not begun on the required number of Affordable Units to qualified buyers, income limitations are eliminated.)

2. Project Address (Include Assessor Parcel Number)

3. Maximum allowable sales price \$ _____ at _____% Interest Rate
Sales price of affordable housing unit \$ _____ at _____% Interest Rate
(Adjustable rate mortgages, graduated payment mortgages, and mortgage buydowns shall not be used to qualify home buyers for the Housing Incentives Program.)
4. Affordable Unit must be occupied by owner whose eligibility has been determined to the satisfaction of the County.
5. Buyer and Seller attest under penalty of perjury under the laws of the State of California that income and sales price do not exceed maximums set forth above.

Buyer's name (please print)

Buyer's signature

Date

Seller's name (please print)

Seller's signature

Date

2011 INCOME LEVELS FOR LOW AND VERY LOW HOUSEHOLDS

Procedure for Computing Maximum Sales Prices for the HIP Program

MAXIMUM PRICE OF THE HOUSING UNIT
MAXIMUM SALE PRICES AND INTEREST RATES

<u>Lower Income:</u>		5.0%	\$208,604
		6.0%	\$186,779
Share of Income	30%	7.0%	\$168,319
Monthly Fees	\$60	8.0%	\$152,615
Monthly payment cannot exceed	\$1,281	9.0%	\$139,175
<u>Very Low Income:</u>		5.0%	\$121,673
		6.0%	\$108,943
Share Income	30%	7.0%	\$ 98,176
Monthly Fees	\$60	8.0%	\$ 89,016
Monthly Payment cannot exceed	\$871	9.0%	\$ 81,177

EXHIBIT D

2011 INCOME LEVELS FOR LOW AND VERY LOW HOUSEHOLDS

Median	\$62,500	Lower*	\$53,350	Very Low	\$33,350
--------	----------	--------	----------	----------	----------

MAXIMUM INCOME LIMITS BY HOUSEHOLD SIZE; HIP 2011

Lower Income:

Size		Size	
1	\$37,350	5	\$57,650
2	42,700	6	61,900
3	48,050	7	66,200
4	53,350	8	70,450

Very Low Income:

Size		Size	
1	\$23,350	5	\$36,050
2	26,700	6	38,700
3	30,050	7	41,430
4	33,350	8	44,050

Recording requested by
County of San Bernardino, California

When recorded, mail to:

Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino CA 92415-0130

Space above this line for Recorder's use

COUNTY OF SAN BERNARDINO

HOUSING INCENTIVES PROGRAM (HIP)
DEVELOPER RENTAL AGREEMENT

This HOUSING INCENTIVES PROGRAM DEVELOPER RENTAL AGREEMENT ("HIP Rental Agreement"), dated as of _____, 20_____, between the County of San Bernardino (the "County"), a legal subdivision and body corporate and politic of the State of California and _____, a _____ organized under the laws of the state of _____ (the "Owner"),

WITNESSETH :

WHEREAS, California Government Code, Section 65915, et seq., requires that the County grant a density bonus and/or other incentive to any developer of housing who meets certain requirements set forth therein and agrees to construct at least (1) 20 percent of the total number of units permitted by the General Plan for a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (2) 10 percent of the total number of units permitted by the General Plan for a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code, or (3) 50 percent of the total dwelling units of a housing development for qualifying residents, as defined in Section 51.3 of the Civil Code, and

WHEREAS, California Code of Regulations, Title 25, Section 6910, et seq., contains regulations implementing the statute described above. The regulations contain various definitions, and contain a table of income limits for families of various sizes and income levels; and

WHEREAS, pursuant to the aforementioned statute and regulations, the County's Board of Supervisors has adopted a Housing Incentives Program (HIP) setting forth criteria for the granting of various incentives, including density bonuses.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this HIP Rental Agreement by the County and the Owner agree as follows:

ARTICLE I

DEFINITIONS AND STRUCTURE

Section 1.1 Definitions. As used in this HIP Rental Agreement, the following terms shall have the following meanings.

Affordable Units. The units in the Project designated for sale to lower income households or seniors.

Maximum Affordable Rent. The Maximum Affordable Rent per month shall be equal to 1/12 of 30 percent of 60 percent of the median family income as established for the County in which the project is located, adjusted for household size, and as determined by the United States Department of Housing and Urban Development for lower income households, and 1/12th of 30 percent of 50 percent for very low income households. The applicable Maximum Affordable Rent is calculated and the schedule of is presented in Exhibit C.

Maximum Household Income. The term "maximum household income" is set forth in Exhibit C.

Building or Structure; Building. The term "Building or Structure" means a discrete edifice or other manmade construction consisting of an independent foundation, outer walls and roof. A single unit which is not an entire building but is merely a part of a building is not a Building or Structure within the meaning hereof. As such, single townhouses are not Buildings or Structures if their foundation, outer walls, and roof are not independent. Detached houses and row houses are Buildings or Structures. The term "Building" shall have the same meaning as the term "Building or Structure."

Lower-Income Household. "Lower income households" means persons and families as described in California Health and Safety Code, Section 50079.5.

Very low income households. "Very low income households" means persons and families as described in California Health and Safety Code, Section 50079.5.

Senior citizen. Senior citizen means a person 62 years of age or older, or 55 years or older in a senior citizen housing development, and as further defined in Section 51.3 of the Civil Code.

Program. The term "Program" means the Housing Incentives Program.

Project. The term "Project" means the multi-family rental housing located on the real property described in Exhibit A hereto.

Term of HIP Rental Agreement. This HIP Rental Agreement shall remain in effect until the owner has satisfied its obligation hereunder, but in no event shall the period of effectiveness extend beyond 50 years from the date first appearing above.

Section 1.2 Interpretation. Unless the context clearly requires otherwise, words of any gender shall be construed to include correlative words of the other genders, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. The HIP Rental Agreement and all the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties by County. The County represents and warrants as follows:

(A) It (1) is a legal subdivision and body corporate and politic of the State of California, duly organized and existing under and by virtue of the Constitution and laws of the State of California; (2) has lawfully determined to adopt and implement the Program; (3) has full power and authority to execute and deliver this HIP Rental Agreement and to perform its obligations hereunder; and (4) by proper action has duly authorized the execution and delivery of this HIP Rental Agreement.

(B) The execution and delivery of this HIP Rental Agreement and the consummation of the transactions contemplated hereby do not conflict with or constitute a breach of or a default under the Constitution or other laws of the State of California or the terms and conditions of any agreement or commitment to which the County is a party or by which the County is bound.

Section 2.2 Representations and Warranties by Owner. The Owner represents and warrants as follows:

(A) It is duly organized, validly existing and in good standing under the laws of the State of its organization as set forth on the first page of the HIP Rental Agreement and has the power and authority to own its properties and carry on its business as now being conducted, and is duly qualified to do such business wherever such qualifications are required, including the State of California.

(B) It has the power to execute and deliver this HIP Rental Agreement and to carry out the transactions contemplated hereby and has duly authorized the execution, delivery and performance of this HIP Rental Agreement.

(C) Neither the execution or delivery of this HIP Rental Agreement nor the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the terms and conditions hereof conflicts with or results in a breach of any of the terms, conditions or provisions or any legal restriction of any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default under any of the foregoing or violate any judgement, order, writ, injunction, decree, law, rule or regulation to which it is subject.

(D) It is knowledgeable and experienced in the construction and operation of multi-family rental housing facilities of the magnitude and nature it proposes to undertake in connection with the Project.

ARTICLE III

OWNER COVENANTS

Section 3.1 Covenants of Owner. The Owner covenants as follows:

(A) Owner is owner of certain real property located in the _____ the County of San Bernardino, described in Exhibit A.

(B) Owner proposes to construct _____ for-rent/lease units on the property described above. The County's General Plan permits the construction of _____ housing units on the property. Owner has requested a _____ percent bonus density. County agrees that Owner shall receive the requested bonus density and any other housing incentive set forth in the HIP as consideration for compliance with all terms of this HIP Rental Agreement.

(C) Owner agrees that _____ percent of the number of units permitted by the General Plan or _____ housing units of the proposed housing units in the Project shall be committed as affordable housing to _____ Income Households as provided below. Owner further agrees to comply with all applicable requirements of the above referenced statutes, regulations and the HIP.

(D) In accordance with this HIP Rental Agreement, Owner shall make available for rent (to low income or very low income households as defined herein) _____ of the housing units constructed for the project, per phase, at a rental price not exceeding the maximum rental price as defined in Section 1.1 herein. Affordable units shall be developed at the same time or prior to market rate units. No less than _____ of the total number of completed units of the Project shall be continuously occupied by (or held vacant and available for immediate occupancy by) qualified tenants. Affordable Units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those available at market rates. This requirement shall apply to the Project for the term of the HIP Rental Agreement as defined in Section 1.1 herein. The annual household income for the _____ income group shall have a maximum as defined in Section 1.1. Owner shall sign a separate rental or lease agreement in form attached as Exhibit B with each renter or lessee of an Affordable Unit stating that the rental or lease is subject to County affordable restrictions on maximum rent and renter incomes.

(E) Owner shall not sell housing unit(s) committed as Affordable Units unless Owner and County of San Bernardino first enter into an HIP Sale Agreement relating to those Affordable Units. The County, at its discretion may execute, or refuse to execute a HIP Sale Agreement, and Owner shall have no recourse against County for such a refusal.

(F) Notwithstanding any other provision of this HIP Rental Agreement to the contrary, under no circumstances shall any of the following be eligible to purchase any of the units in the Project as a lower income or very low income buyer:

1. The Owner, independent Contractors of the Owner, and any management companies and sales/rental agencies retained by the Owner.
2. Employees or owners of any entity listed in 1. above.
3. Family members of any individual listed in 2, above. As used herein. The term "family member" means spouse, children, grandparents and parents.

- (G) 1. For a period of _____ years following the date of final Project approval by the County, Owner shall commit _____ of the total number of housing units as Affordable Units for rent/lease to _____-Income households ("qualified tenants").

2. After a period of two years following the date of final Project approval by the County, in the event Owner is unable to contract with the required number of qualified tenants, Owner shall complete and document to the County the following:
 - a. Owner has advertised, over a sixty-day period, in an area newspaper of general circulation seeking qualified tenants not less than once per week.
 - b. Owner has contacted the Housing Authority of San Bernardino County requesting qualified tenants.
 - c. Listing of names and addresses of interested potential qualified tenants for the Affordable Units.

If at the end of the sixty-day period, sufficient qualified tenants are unavailable, Owner may rent to unqualified tenant(s). Each Affordable Unit which subsequently becomes vacant must be made available to qualified tenants for sixty days under Subsection (b). The process shall continue until the required number of Affordable Units are rented by qualified tenants.

(H) The Affordable Units shall be rented/leased only to _____-income households for a period of _____ years from date of this HIP Rental Agreement, as provided in Section 65915(c) of the Government Code. A restriction to this effect shall be set forth on the Deed of Trust for each Affordable Unit.

(I) Owner shall complete and document to the County for each Affordable Unit within 30 days of renting/leasing each unit the following:

1. A current copy of a signed HIP Rental Agreement for each Affordable Unit. The required HIP Rental Agreement form is attached and shall be renewed each year for each affordable housing unit.
2. Substantiating documentation that tenant is a qualified _____-income household. Such documentation may include, but is not limited to at least one of the following:
 - a. Copy of most recent Federal Income Tax statement
 - b. Copy of W-2 forms from current employer of qualified tenant
 - c. Copy of check stub of SSDI or other income sources
3. A declaration under penalty of perjury setting forth rental rates and tenant's qualifying income for all affordable housing units.

(J) If at yearly tenant income review tenant no longer qualifies to rent/lease the Affordable Unit, tenant's affordable housing unit designation shall be rescinded and the next available rental unit not already designated as an Affordable Unit shall be so designated and made available for rental to _____-income households.

(K) Owner shall promptly in writing notify County upon any transfer or sale of the Project and a new HIP Rental Agreement shall be executed by the new owner prior to the close of escrow. The Project shall remain subject to the requirements of this HIP Rental Agreement whether or not a new agreement is executed.

ARTICLE IV

AMENDMENT BY COUNTY

Section 4.1 Amendment by County. This HIP Rental Agreement is subject to the State Density Bonus Law (California Government Code Section 65915 et seq.) and all changes to such law shall, where necessary constitute an automatic amendment to this HIP Rental Agreement. Such automatic amendments include modifications to the maximum rental prices and/or maximum income levels by the State Department of Housing and Community Development (HCD).

ARTICLE V

PENALTIES FOR DEFAULT

Section 5.1 Default Defined: Penalties. If Owner violates restrictions or provisions contained in this HIP Rental Agreement, Owner shall pay to County five thousand dollars (\$5,000.00) for each and every such violation. "Violation" means the rental of an Affordable Unit at a rate in excess of that permitted hereunder and/or to a household having an income in excess of that permitted hereunder, provided that not more than one (1) violation shall be cited with regard to any individual non-qualifying rent level or tenant household, as to any particular Affordable Unit, in any one- (1) year period. County shall allocate any money collected pursuant to this Section for the provision of additional affordable housing including the administration and enforcement of the HIP program.

ARTICLE VI

OTHER MATTERS

Section 6.1 Recordation of Regulatory Agreement. This HIP Rental Agreement shall be recorded in the land records of the County, such recordation to be effected at the direction of the County.

Section 6.2 Execution in Counterparts. The HIP Rental Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, such counterparts shall constitute but one and the same instrument.

Section 6.3 Saturdays, Sundays and Holidays. If any action is required to be taken hereunder on a date which falls on a Saturday, Sunday or a holiday, such action shall be taken on the next succeeding business day.

Section 6.4 Entire Agreement. This HIP Rental Agreement shall be construed in accordance with the laws of the State of California. The Exhibits hereto are incorporated herein by this reference. This HIP Rental Agreement shall be construed in accordance with the laws of the State of California and constitutes the entire agreement between the parties and supercedes all prior negotiations, discussions, and preliminary understandings. This HIP Rental Agreement may be amended as the County and Owner mutually agree in writing. Any such amendment must be approved and signed by authorized representatives of the County and Owner.

Section 6.5 Notices. All notices, certificates or other communications shall be addressed as follows:

If to the County: Land Use Services Department
Planning Division
385 N. Arrowhead Ave., 1ST Floor
San Bernardino CA 92415-0182

If to the Owner: _____

The County and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.6 Severability. In the event any provision of this HIP Rental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.7 Further Assurances and Corrective Instruments. To the extent permitted by law, the County and the Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitation of the performance of this HIP Rental Agreement.

Section 6.8 Limited Liability.

(A) Nothing contained herein shall create or constitute a debt or indebtedness of the State or the County within the meaning of any provision or limitation of the Constitution or statutes of the State or shall create or constitute or give rise to a pecuniary liability of the State or the County or a charge against its general credit or taxing powers. No Supervisors or officer, agent or employee of the County shall be individually or personally liable for any obligation of the County hereunder; but nothing herein contained shall relieve any such Supervisor, officer, agent or employee from the performance of any official duty provided by law.

(B) Owner shall indemnify, defend and hold harmless the County, its officers, agents and employees for any and all claims, losses or legal actions arising from any and all of the actions or omissions of the Owner, its employees, agents or subcontractors pertaining to this HIP Rental Agreement.

Section 6.9 Waiver. No waiver of a breach of any provision of this HIP Rental Agreement shall constitute a waiver of any other breach or other provision. Failure of Owner or County to enforce at any time or from time to time, any provision in this HIP Rental Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be complete and additional to any other remedies in law or equity.

Section 6.10 Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only and are not a part of this HIP Rental Agreement and shall not be used in the interpretation thereof.

Section 6.11 Breach. In the event Owner shall violate any provision of this HIP Rental Agreement, Owner shall reimburse County for all costs, including reasonable attorney's fees, to the extent provided by law, incurred by County in enforcing this HIP Rental Agreement or its rights hereunder.

IN WITNESS WHEREOF, the parties have caused this HIP Rental Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

[SEAL]

COUNTY OF SAN BERNARDINO

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED TO
THE CHAIRMAN OF THE BOARD
LAURA H. WELCH, Clerk of the Board of Supervisors
of the County of San Bernardino

Deputy

By: _____
Chairman of the Board of Supervisors

[SEAL]

ATTEST:

(Owner)

By: _____

EXHIBIT A
to HIP Rental Agreement

Description of the real property
on which the project is located
(Include Assessor Parcel Number)

EXHIBIT B

COUNTY OF SAN BERNARDINO HIP RENTAL AGREEMENT

This rental housing unit is subject to the County of San Bernardino's affordable housing regulations. To comply with County regulations, this form must be completed and signed by both the Renter and Property Manager.

Property address: _____

This agreement is for Unit # _____ at the above property address.
HIP contract #: _____

1. Tenant's gross income for 20____: \$_____
2. Number of persons in household: _____
3. Maximum allowable gross income pursuant to the definition of the term in Exhibit C of HIP Rental Agreement: _____
4. Number of bedrooms in apartment unit: _____
5. Monthly rent: \$_____
6. Maximum allowable rent pursuant to the definition of the term "Affordable Rents" in the HIP Rental Agreement: \$_____

Both manager and tenant attest under penalty of perjury that income and rent do not exceed maximums set forth above.

Manager's Name (please print)

()

Manager's Phone Number

Manager (signature)

Date

Tenant's Name (please print)

Tenant (signature)

Date

EXHIBIT C

2011 INCOME LEVELS FOR LOW AND VERY LOW HOUSEHOLDS

Median \$62,500 Lower * \$53,350 Very Low \$33,350

Procedure for Computing Maximum Rents for the HIP Program

Calculate the Maximum Rents using the following formulas:

Lower Income Monthly Rent (Monthly Income x 30% X Adjustment for BR size)

Very Low Income Monthly Rent = (Monthly Income x 30% X Adjustment for BR size)

Lower Income* 60%* (In calculating maximum rents, the 30% affordability rate is applied to 60% of the median, rather than 80% for this income group.)

Rental Units Bedrooms: 1, 2 & 3
Households HH Sizes: 1... 8

MAXIMUM RENTAL RATES

The maximum rental rates for affordable units based on BR size are as follows:

Lower Income:		Very Low Income:	
1 - Bedroom	\$1062	1 - Bedroom	\$ 676
2 - Bedroom	1356	2 - Bedroom	839
3 - Bedroom	1532	3 - Bedroom	972

OR

RENTAL INCOME LIMITS BY HOUSEHOLD SIZE; HIP 2011

Lower Income Rental Income Limit = (Median Income x .8 x Adjustment HH Size)

Very Low Income Rental Income Limit = (Median Income x .5 x Adjustment HH Size)

The maximum rental rates for affordable units based on HH size are as follows:

Lower Income:		Very Low Income:	
Size	Size	Size	Size
1 \$ 936	5 \$1,430	1 \$ 595	5 \$ 904
2 1,066	6 1,533	2 676	6 969
3 1,196	7 1,638	3 757	7 1,034
4 1,326	8 1,742	4 839	8 1,099

NOTE: The Maximum Allowable Rent rates to be used are those adjusted for household size. The rental rates adjusted for number of bedrooms has been provided as a reference for an "expected" or "appropriate" household to unit size estimate. Other sized households may eventually reside in the units.

EXHIBIT D

2011 INCOME LEVELS FOR LOW AND VERY LOW HOUSEHOLDS

Median	\$62,500	Lower*	\$53,350	Very Low	\$33,350
--------	----------	--------	----------	----------	----------

MAXIMUM INCOME LIMITS BY HOUSEHOLD SIZE; HIP 2011

Lower Income:

Size		Size	
1	\$37,350	5	\$57,650
2	42,700	6	61,900
3	48,050	7	66,200
4	53,350	8	70,450

Very Low Income:

Size		Size	
1	\$23,350	5	\$36,050
2	26,700	6	38,700
3	30,050	7	41,430
4	33,350	8	44,050